

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 645

Introduced by Assembly Member Davis

February 16, 2011

An act to ~~amend Section 2923.1 of the Civil Code, relating to real property transactions.~~ *add Section 66024.5 to the Education Code, relating to postsecondary education.*

LEGISLATIVE COUNSEL'S DIGEST

AB 645, as amended, Davis. ~~Real property transactions.~~ *Postsecondary education: ethnic studies.*

Existing law establishes the segments of the public postsecondary education system in the state, including, but not limited to, the University of California administered by the Regents of the University of California and the California State University administered by the Trustees of the California State University.

This bill would require the California State University, and request the University of California, commencing with the 2013–14 academic year, to require students entering the university during or after the 2013–14 academic year to complete 2 courses in ethnic studies prior to graduation, regardless of major.

~~Existing law provides that a mortgage broker, as defined, who provides mortgage brokerage services to a borrower is the fiduciary of the borrower and any violation of the broker's fiduciary duty is a violation of the broker's license law. Existing law provides that this fiduciary duty includes a requirement that the mortgage broker place the economic interest of the borrower ahead of his or her own economic~~

interest. Under existing law, a violation of the licensing laws of certain mortgage brokers is a crime

This bill would provide that the fiduciary duty owed to a borrower includes a requirement that the mortgage broker provide information to a borrower regarding the advantages and disadvantages of the loan options available to the borrower based upon the borrower's income and credit rating. The bill would also provide that the fiduciary duty owed to a borrower includes, if a broker arranges a loan that is less advantageous than a loan for which the borrower is otherwise qualified and the borrower defaults on the loan, sending a letter to any consumer reporting agency indicating that the broker arranged the loan and that the loan was less advantageous than a loan the broker could have arranged for which the borrower was otherwise qualified. Because a violation of this requirement by certain mortgage brokers would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason:

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66024.5 is added to the Education Code,
- 2 to read:
- 3 66024.5. (a) Commencing with the 2013–14 academic year,
- 4 the California State University shall, and the University of
- 5 California is requested to, require students, regardless of major,
- 6 to complete two courses in ethnic studies prior to graduation.
- 7 (b) The requirement imposed pursuant to subdivision (a) shall
- 8 only apply to students entering the university during or after the
- 9 2013–14 academic year.
- 10 SECTION 1. Section 2923.1 of the Civil Code is amended to
- 11 read:
- 12 2923.1. (a) A mortgage broker providing mortgage brokerage
- 13 services to a borrower is the fiduciary of the borrower, and any
- 14 violation of the broker's fiduciary duties shall be a violation of the
- 15 mortgage broker's license law. This fiduciary duty includes a

1 requirement that the mortgage broker place the economic interest
2 of the borrower ahead of his or her own economic interest and a
3 requirement that the mortgage broker provide information to the
4 borrower regarding the advantages and disadvantages of the loan
5 options available to the borrower based upon the borrower's
6 income and credit rating. If, after providing this information to a
7 borrower, a mortgage broker arranges a loan that is less
8 advantageous than a loan for which the borrower is otherwise
9 qualified and the borrower defaults on the loan, the mortgage
10 broker shall also have a fiduciary duty to send a letter to any
11 consumer credit reporting agency, as defined in Section 1785.3,
12 indicating that the broker arranged the loan and that loan was less
13 advantageous than a loan the broker could have arranged for which
14 the borrower was otherwise qualified. A mortgage broker who
15 provides mortgage brokerage services to the borrower owes this
16 fiduciary duty to the borrower regardless of whether the mortgage
17 broker is acting as an agent for any other party in connection with
18 the residential mortgage loan transaction.

19 (b) For purposes of this section, the following definitions apply:

20 (1) "Licensed person" means a real estate broker licensed under
21 the Real Estate Law (Part 1 (commencing with Section 10000) of
22 Division 4 of the Business and Professions Code), a finance lender
23 or broker licensed under the California Finance Lenders Law
24 (Division 9 (commencing with Section 22000) of the Financial
25 Code), a residential mortgage lender licensed under the California
26 Residential Mortgage Lending Act (Division 20 (commencing
27 with Section 50000) of the Financial Code), a commercial or
28 industrial bank organized under the Banking Law (Division 1
29 (commencing with Section 99) of the Financial Code), a savings
30 association organized under the Savings Association Law (Division
31 2 (commencing with Section 5000) of the Financial Code), and a
32 credit union organized under the California Credit Union Law
33 (Division 5 (commencing with Section 14000) of the Financial
34 Code).

35 (2) "Mortgage broker" means a licensed person who provides
36 mortgage brokerage services. For purposes of this section, a
37 licensed person who makes a residential mortgage loan is a
38 "mortgage broker," and subject to the requirements of this section
39 applicable to mortgage brokers, only with respect to transactions
40 in which the licensed person provides mortgage brokerage services.

1 ~~(3) “Mortgage brokerage services” means arranging or~~
2 ~~attempting to arrange, as exclusive agent for the borrower or as~~
3 ~~dual agent for the borrower and lender, for compensation or in~~
4 ~~expectation of compensation, paid directly or indirectly, a~~
5 ~~residential mortgage loan made by an unaffiliated third party.~~

6 ~~(4) “Residential mortgage loan” means a consumer credit~~
7 ~~transaction that is secured by residential real property that is~~
8 ~~improved by four or fewer residential units.~~

9 ~~(e) The duties set forth in this section shall not be construed to~~
10 ~~limit or narrow any other fiduciary duty of a mortgage broker.~~

11 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
12 ~~Section 6 of Article XIII B of the California Constitution because~~
13 ~~the only costs that may be incurred by a local agency or school~~
14 ~~district will be incurred because this act creates a new crime or~~
15 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
16 ~~for a crime or infraction, within the meaning of Section 17556 of~~
17 ~~the Government Code, or changes the definition of a crime within~~
18 ~~the meaning of Section 6 of Article XIII B of the California~~
19 ~~Constitution.~~